

Appendix L

UST Cleanup Fund

CALIFORNIA UNDERGROUND STORAGE TANK CLEANUP FUND

A. History

The Barry Keene Underground Storage Tank Cleanup Fund Act of 1989 created the Underground Storage Tank Cleanup Fund Program to help owners and operators of underground storage tanks (USTs) satisfy federal and state financial responsibility requirements and to assist with the costs of cleanup of contaminated soil and groundwater caused by leaking petroleum USTs. The Fund also provides coverage for third-party liability due to releases.

Established by SB 299 in 1989, modified by SB 2004 in 1990, and extended by SB 989 in 1999, the funding is collected by the State Board of Equalization and ends on January 1, 2011.

To be eligible to file a claim against the Fund, a person must be a current or past owner or operator of a petroleum UST that has released petroleum and which is subject to state regulation. Owners of small home heating oil tanks that have released petroleum are also eligible. Other eligibility conditions include compliance with applicable state permit requirements and regulatory agency cleanup orders. Claimants may receive reimbursements up to \$1,500,000. A deductible applies to all claimants except those who qualify for Priority A.

The Fund is administered by the State Water Resources Control Board (SWRCB). On September 26, 1991, the SWRCB adopted emergency regulations implementing the program, and the regulations became effective on December 2, 1991.

B. Claim Priority System

The implementing legislation sets forth a claim priority system that is based on claimant characteristics. The highest priority, Class A, is given to residential UST owners; the second priority, Class B, is given to small California businesses, governmental agencies and nonprofit organizations with gross receipts below a specified maximum; the third priority, Class C, is given to California businesses, governmental agencies and nonprofit organizations having fewer than 500 employees; and the fourth priority, Class D, is given to all other claimants.

Under statute, the Priority List must be updated at least once a year to include new claims. Since fall 1993, the Fund has been updating the list monthly. Claims from previous updates retain their relative ranking within their priority class with new claims ranked in their appropriate class below those carried over from the previous list. New claims in a higher priority class must be processed before older claims in a lower priority class.

There is one major exception to the priority system. Legislation passed in 1993 requires the Fund to award approximately 15 percent of its funds annually to any lower priority classes that would not otherwise be funded (i.e., "C" and "D" claimants each receive at least 15 percent of the annual funding).

C. Letters of Commitment

When a claim is activated from the Priority List, the eligibility requirements are verified with the appropriate regulatory agency, and a Letter of Commitment (LOC) is issued. The LOC is the mechanism by which the program awards or encumbers funds for reimbursement of cleanup costs. A claim is removed from the Priority List when the claimant is issued an LOC. Initial LOCs are issued in an amount adequate to cover the actual eligible costs incurred to date. LOC amounts are administratively increased as necessary to insure sufficient funding of eligible costs.

D. Reimbursements

Once an LOC is issued, claimants may submit payment requests. Eligible costs include reasonable and necessary corrective action costs incurred after January 1, 1988, and amounts awarded in third-party compensation against the claimant. Only costs paid by or on behalf of the claimant may be reimbursed.

E. Financial Responsibility

Federal EPA regulations (Section 280.90, Subpart H-Financial Responsibility, Part 280, 40 CFR) published on October 16, 1988, require owners and operators of USTs to demonstrate through insurance coverage or other acceptable mechanisms that they can pay for cleanup and third-party damages resulting from leaks that may occur from their USTs.

On June 9, 1993, the United States Environmental Protection Agency (EPA) approved California's Fund as a mechanism for meeting the federal financial responsibility requirements for USTs containing petroleum.

In order for the Fund to be used as a financial responsibility mechanism, the law requires that the claimant must (a) be the owner or operator of a petroleum UST as defined in Section 25281 (x) of the H&SC; (2) be in compliance with applicable financial responsibility requirements; and (3) be in compliance with UST laws and regulations.

F. Appeals

Claimants who fail to reach agreement with the Fund on any Fund decision may appeal that decision. The appeal process is found in Article 5, Chapter 18 of the UST Cleanup Fund regulations. In addition, a recently adopted Senate Bill (SB 562) allows for a review of all sites which have an existing Letter of Commitment which is 5 years or older. SB 562 also provides for any owner or operator who has a Fund claim to request a case review by the Fund Manager. For those owners or operators who have not applied to the Fund, they may petition the State Board for review of their case. All case reviews are specific to those sites where the owner or operator believes that the corrective action plan has been satisfactorily implemented.

1. General Information

Fund Overview: who are we, what do we do
 How to Contact the Fund: addresses and phone numbers
 Fund's Status: how many applications, LOCs, Reimbursement Requests

2. Bulletins, News Releases, and Special Notices

New 1996 Regulations Available
 Final Cost Guidelines Available
 Lawrence Livermore Report recommends dramatic changes to UST corrective actions
 Fund issues no new LOCs for remainder of 95/96 fiscal year
 Walt Pettit's February 16, 1996 letter to regional EOs and LOP Directors.

3. Technical Guidance

Cost Guidelines: Fund's Cost Guidelines for corrective action work in California
 Guidance #4: pre-approving corrective action costs, assisting claimants, and improving California's UST Cleanup Process
 Guidance #3: assisting claimants with hiring of consultants and contractors
 Guidance #2: Contractor's State Licensing Laws as they pertain to work with the USTCF
 Guidance #1: Fund's Three Bid Requirement (see updated version in Cost Guidelines Policy section)

RMICB: Recommended Minimum Invoice Cost Breakdown

4. UST Update Newsletters

UST Update #8: UST Update Newsletter #8, Spring 1996
 Previous UST Updates: UST Update Newsletter Back Issues

5. Available Documents to Download

Cost Guidelines: in HTML or PDF format for printing or viewing off-line
 1996 Regulations: in HTML or PDF format for printing or viewing off-line
 Application: instructions and forms to apply to the Fund
 Reimbursement Request(s): instructions and forms for completing a reimbursement request
 Spreadsheets: example copies of spreadsheets for Reimbursement Requests
 Financial Responsibility Guide: instructions and forms
 1996 Fund Regulations: the fine print

6. Financial Responsibility

Financial Responsibility Guide: how it works, dated 1995
 Financial Responsibility Long Term Study: report, dated January 1995
 USTCF Regulations pertaining to financial responsibility

7. Legislative Reports

Legislative Annual Report: September 1994
 Financial Responsibility Long Term Study: January 1995

Blythe Environmental Remediation demonstration Project: May 1995

8. Regulations

1996 USTCF Regulations: the "fine print" for your reading enjoyment

Preview of Coming Attractions

USTCF Corrective Action Guide (CAG)

USTCF Searchable Databases

(Note: All Documents can be found on the Fund's web site at:
<http://www.swrcb.ca.gov/-cwphome/fundhome.htm>)

For technical problems or questions: cwphome@swrcb.ca.gov

**State of California
Division of Clean Water Programs
UST Cleanup Fund
(USTCF)**

How to Contact the Fund....

Call our 800 number and leave a message.

1-800-813-FUND (3863)

Our fax number is: **(916) 227-4530**

Send mail through the U.S. Postal Service to:

**UST Cleanup Fund
P.O. Box 944212
Sacramento, CA 94244-2120**

Send parcels and packages (UPS, FedEx, etc.) to:

**UST Cleanup Fund
UST Cleanup Fund
1001 "I" Street, 17th Floor
Sacramento, CA 95814-2828**